

## **EXTRACTS FROM MINUTES OF THE CITY COUNCIL**

A Council Meeting of the City Council of the City of Durham, North Carolina, was duly held on October 21, 2013 at 7:00 p.m. in the Council's Chambers at City Hall, 101 City Hall Plaza, Durham, North Carolina. Mayor William V. Bell presiding.

The following members were present:

The following members were absent:

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Council Member \_\_\_\_\_ moved that the following resolution, copies of which having been made available to the City Council, be adopted:

RESOLUTION NO. \_\_\_\_\_

**RESOLUTION OF THE CITY OF DURHAM, NORTH CAROLINA REQUESTING A DEED OF PARTIAL RELEASE OF CERTAIN PREMISES RELATED TO AN INSTALLMENT PURCHASE CONTRACT AND AUTHORIZING THE EXECUTION AND DELIVERY OF A NOTICE OF EXTENSION OF DEED OF TRUST TO ADDITIONAL PROPERTY RELATED THERETO IN ORDER TO EXTEND THE LIEN**

*WHEREAS*, the City of Durham, North Carolina (the “City”) is a municipal corporation validly existing under the Constitution, statutes and laws of the State (the “State”);

*WHEREAS*, the City entered into (a) an Installment Purchase Contract dated as of January 1, 2007 (the “Contract”) with the New Durham Corporation, a North Carolina nonprofit corporation (the “Corporation”), in order to pay the capital costs of, among other things, acquiring, constructing, equipping and installing of performing arts facility (the “DPAC”) and (b) a Deed of Trust and Security Agreement dated as of January 1, 2007 (the “Deed of Trust”) from the City to a deed of trust trustee (the “Deed of Trust Trustee”) placing a lien on the site of the DPAC and improvements thereon (the “Premises”) to secure the City’s obligations under the Contract;

*WHEREAS*, pursuant to an Indenture of Trust dated as of January 1, 2007 (the “Indenture”) between the Corporation and Deutsche Bank National Trust Company, the successor to which is U.S. Bank National Association, as trustee (the “Trustee”), the Corporation executed and delivered Taxable Certificates of Participation, Series 2007A and Certificates of Participation, Series 2007B, each Evidencing Proportionate Undivided Interests in Rights to Receive Certain Revenues Pursuant to the Contract (collectively, the “2007 Certificates”);

*WHEREAS*, the City has negotiated a certain Development Agreement (the “Development Agreement”) involving various legal entities owned and/or controlled by Capital Broadcasting Company, Incorporated (“CBC”). Such entities are collectively hereinafter referred to as the “Developer.” In connection with the execution and delivery of the Development Agreement, the City expects (a) to transfer small portions of the Premises, certain air rights and various easement rights and to terminate certain existing easement rights that benefit and/or burden the City and the Premises (collectively, the “Released Property”) to the Developer and (b) to receive from the Developer small portions of adjoining properties and various easement rights sufficiently related or appurtenant to the Premises (collectively, the “Additional Property”) that, pursuant to the Deed of Trust, they must be made subject to the lien created thereunder;

*WHEREAS*, the City staff hereby requests that the City Council approve (a) the execution and delivery of a Deed of Partial Release (the “Deed of Partial Release”), pursuant to which the City may gain the release of the Released Property from the lien created by the Deed of Trust and (b) the execution and delivery of a Notice of Extension of Deed of Trust to Additional Property (the “Notice of Extension”), pursuant to which the City may pledge the Additional Property and subject it to the lien created by the Deed of Trust;

*WHEREAS*, pursuant to Section 1.14 of the Deed of Trust, the City must make certain findings with respect to the Released Property in order to request a release of the Released Property;

*WHEREAS*, copies of the forms of the Notice of Extension and the Deed of Partial Release (collectively, the “Recording Documents”) have been made available to the City Council;

***NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DURHAM, NORTH CAROLINA, AS FOLLOWS:***

***Section 1. Request for Release of Premises.*** That the City hereby requests, in accordance with Section 1.14 of the Deed of Trust, that the Deed of Trust Trustee release from the Deed of Trust those portions of the Premises described as the Released Property on Exhibit A attached hereto (which shall be contained in the Deed of Partial Release) and that the City agrees to pay all expenses associated with the completion of such release. In connection therewith, the City hereby finds (with the understanding that the Trustee will rely upon such findings in executing the Deed of Partial Release) that (i) the purpose of the Deed of Partial Release is to allow for the construction and use of a hotel facility adjacent to the Premises, which is expected to enhance the Premises by providing more overnight accommodation opportunities for visitors to the Premises; (ii) an adequate legal description of the Released Property for inclusion in the Deed of Partial Release is attached hereto as Exhibit A and labeled "Released Property"; (iii) the insured value of the Premises after the proposed release of the Released Property and the proposed pledge of the Additional Property will be in excess of 100% of the aggregate principal component of the Installment Payments (as defined in the Contract) related to the 2007 Certificates currently outstanding; and (iv) the proposed release of the Released Property and the proposed pledge of the Additional Property will not prohibit ingress, egress and regress to and from the Premises not being released or materially interfere with the use of the remainder of the Premises not being released.

***Section 2. Consent of the Beneficiary.*** That the City hereby requests, in accordance with Section 1.14 of the Deed of Trust, that the Trustee, as the assignee of the beneficiary under the Deed of Trust, (a) consent to the release from the Deed of Trust of those portions of the Premises described as the Released Property on Exhibit A attached hereto and execute and deliver the Deed of Partial Release and (b) execute and deliver the Notice of Extension, which memorializes the extension of the lien of the Deed of Trust to the Additional Property described on Exhibit A attached hereto.

***Section 3. Authority to Execute and Deliver the Recording Documents.*** That the forms and content of the Recording Documents shall be and the same hereby are in all respects authorized, approved and confirmed, and the Mayor, the City Manager and the City Clerk and their respective designees shall be and they hereby are authorized, empowered and directed to execute and deliver the Recording Documents, including necessary counterparts, in substantially the forms and content presented to the City Council, but with such changes, modifications, additions or deletions therein as shall to them seem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of their approval of any and all changes, modifications, additions or deletions therein from the forms and content of the Recording Documents presented to the City Council, and that from and after the execution and delivery thereof, the City Manager, the Finance Director and the City Clerk are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions thereof as executed.

***Section 4. Actions by the City.*** That the Mayor, the City Clerk, the City Manager, the City Finance Director, the City Attorney and their respective designees, are hereby designated to act on behalf of the City to effectuate the release of the Released Property and the extension of the Deed of Trust to the Additional Property, all as described in this Resolution, and all actions of such officers on behalf of the City with respect to such actions, whether previously or hereinafter taken, are hereby approved, ratified and authorized.

**Section 5. Severability.** That if any section, phrase or provision of this Resolution shall for any reason be declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases or provisions of this Resolution.

**Section 6. Repealer.** That all motions, orders, resolutions and parts thereof, in conflict herewith are hereby repealed.

**Section 7. Effective Date.** That this Resolution shall become effective on the date of its adoption.

## EXHIBIT A

### Released Property

#### 1. LEGAL DESCRIPTION OF FEE PARCEL NO. 2.

All that certain real property located in the City of Durham, Durham County, North Carolina, more particularly described as follows:

COMMENCING from the North Carolina Geodetic Survey (NCGS) monument designated "Vickers", with corresponding grid coordinates North = 816,769.162 and East = 2,026,104.63613; THENCE North 08° 06' 45" West a computed grid distance of 1,793.95 feet with a combined grid factor of 0.99994251 to a NCGS monument designated "Lark", with corresponding grid coordinates North = 818,545.156 and East = 2,025,851.456; THENCE South 57° 32' 14" East 3,294.20 feet to an existing iron bar in the eastern right-of-way margin of Blackwell Street (a variable width public right-of-way); THENCE along the southern boundary of the intersecting right-of-way margins of Blackwell Street and Vivian Street (a variable width public right-of-way), through an arc of a curve to the right, having a Delta of 89° 10' 55", a radius of 20.00 feet, an arc length of 31.13 feet, and a chord bearing and distance of North 78° 21' 46" East 28.08 feet to an existing iron bar in the southern right-of-way margin of Vivian Street; THENCE along the southern right-of-way margin of Vivian Street, South 57° 02' 46" East 190.22 feet to an existing iron bar labeled Common Corner "DPAC", the common corner of Data Residential, LLC (PIN 0821-12-86-6523, Deed Book 5833, Page 805) and City of Durham (PIN 0821-12-86-9407, Deed Book 1636, Page 414, Deed Book 2383, Page 804, Deed Book 2542, Page 837, and Deed Book 5428, Page 313); THENCE departing the southern right-of-way margin of Vivian Street, along the common line of Data Residential, LLC and City of Durham, South 19° 05' 11" West 114.82 feet to a MAG nail set, the TRUE POINT OF BEGINNING;

THENCE from the TRUE POINT OF BEGINNING, with a New Property Line South 70° 49' 48" East 71.64 feet to a MAG nail set; THENCE with a New Property Line South 19° 14' 47" West 42.57 feet to a MAG nail set; THENCE with a New Property Line North 70° 45' 08" West 5.86 feet to a computed point; THENCE with an Old Property Line North 19° 00' 20" East 27.74 feet to an existing iron pipe; THENCE with an Old Property Line North 70° 56' 46" West 65.62 feet to a computed point; THENCE with an Old Property Line North 19° 05' 11" East 2.91 feet to an existing iron pipe; THENCE continuing North 19° 05' 11" East 12.04 feet to a MAG nail set, the TRUE POINT OF BEGINNING.

BEING all of Fee Parcel No. 2, containing 1,230.25 square feet, more or less, as shown on that certain plat and survey entitled "Exempt Recombination Plat of ATC East Hotel" prepared by Jeffrey P. Williams, Professional Land Surveyor, with Coulter/Jewell/Thames, P.A., dated October 10, 2013, and last revised on \_\_\_\_\_, 2013, and recorded in Plat Book [XX], Pages [XX-XX], Durham County Registry.

#### 2. LEGAL DESCRIPTION OF FEE PARCEL NO. 4

All that certain real property located in the City of Durham, Durham County, North Carolina, more particularly described as follows:

COMMENCING from the North Carolina Geodetic Survey (NCGS) monument designated "Vickers", with corresponding grid coordinates North = 816,769.162 and East = 2,026,104.63613; THENCE North 08° 06' 45" West a computed grid distance of 1,793.95 feet with a combined grid factor of 0.99994251 to a NCGS monument designated "Lark", with corresponding grid coordinates North = 818,545.156 and

East = 2,025,851.456; THENCE South 57° 32' 14" East 3,294.20 feet to an existing iron bar in the eastern right-of-way margin of Blackwell Street (a variable width public right-of-way); THENCE along the southern boundary of the intersecting right-of-way margins of Blackwell Street and Vivian Street (a variable width public right-of-way), through an arc of a curve to the right, having a Delta of 89° 10' 55", a radius of 20.00 feet, an arc length of 31.13 feet, and a chord bearing and distance of North 78° 21' 46" East 28.08 feet to an existing iron bar in the southern right-of-way margin of Vivian Street; THENCE along the southern right-of-way margin of Vivian Street, South 57° 02' 46" East 190.22 feet to an existing iron bar labeled Common Corner "DPAC", the common corner of Data Residential, LLC (PIN 0821-12-86-6523, Deed Book 5833, Page 805) and City of Durham (PIN 0821-12-86-9407, Deed Book 1636, Page 414, Deed Book 2383, Page 804, Deed Book 2542, Page 837, and Deed Book 5428, Page 313); THENCE departing the southern right-of-way margin of Vivian Street, along the common line of Data Residential, LLC and City of Durham, South 19° 05' 11" West 114.82 feet to a MAG nail set, THENCE with a New Property Line South 70° 49' 48" East 71.64 feet to a MAG nail set; THENCE with a New Property Line South 19° 14' 47" West 42.57 feet to a MAG nail set; THENCE with a New Property Line North 70° 45' 08" West 9.86 feet to a MAG nail set; THENCE South 19° 00' 52" West 46.60 feet to a MAG nail set; THENCE with a New Property Line North 70° 52' 56" West 9.41 feet to a MAG nail set; HENCE with a New Property Line South 19° 04' 37" West 14.87 feet to a MAG nail set; THENCE with a New Property Line North 70° 49' 11" West 8.54 feet to a MAG nail set; THENCE with a New Property Line South 19° 10' 41" West 19.98 feet to a MAG nail set; THENCE with a New Property Line South 70° 44' 05" East 8.57 feet to a MAG nail set, the TRUE POINT OF BEGINNING;

THENCE from the TRUE POINT OF BEGINNING, with a New Property Line South 19° 04' 37" West 65.90 feet to a computed point in the line of property now or formerly owned by East Deck, Inc.; THENCE with the line of East Deck, Inc. North 70° 54' 49" West 5.05 feet to an existing iron pipe; THENCE with an Old Property Line North 19° 00' 20" East 65.91 feet to a computed point; THENCE with a New Property Line South 70° 44' 05" East 5.13 feet to a MAG nail set, the TRUE POINT OF BEGINNING.

BEING all of Fee Parcel No. 4, containing 335.38 square feet, more or less, as shown on that certain plat and survey entitled "Exempt Recombination Plat of ATC East Hotel" prepared by Jeffrey P. Williams, Professional Land Surveyor, with Coulter/Jewell/Thames, P.A., dated October 10, 2013, and last revised on \_\_\_\_\_, 2013, and recorded in Plat Book [XX], Pages [XX-XX], Durham County Registry.

### **3. LEGAL DESCRIPTION OF NEW AIR RIGHTS PROPERTY AREA NO. A1**

All that certain real property located in the City of Durham, Durham County, North Carolina, more particularly described as follows:

BEING all of the air space or air rights ("Air Rights") lying above a horizontal plane at an elevation of 404.7 feet above United States Coast and Geodetic Survey 1929 adjusted Mean Sea Level as shown on the plat and survey entitled "Exempt Recombination Plat of ATC East Hotel" prepared by Jeffrey P. Williams, Professional Land Surveyor, with Coulter/Jewell/Thames, P.A., dated October 10, 2013, and last revised on \_\_\_\_\_, 2013, and recorded in Plat Book [XX], Pages [XX-XX], Durham County Registry (the "Plats"); the vertical limits of said Air Rights being located over the following described property:

COMMENCING from the North Carolina Geodetic Survey (NCGS) monument designated "Vickers" with corresponding grid coordinates North = 816,769.162 and East = 2,026,104.63613; THENCE North 08° 06' 45" West a computed grid distance of 1,793.95 feet with a combined grid factor of 0.99994251 to

a NCGS monument designated “Lark”, with corresponding grid coordinates North = 818,545.156 and East = 2,025,851.456; THENCE South 57° 32’ 14” East 3,294.20 feet to an existing iron bar in the eastern right-of-way margin of Blackwell Street (a variable width public right-of-way); THENCE along the southern boundary of the intersecting right-of-way margins of Blackwell Street and Vivian Street (a variable width public right-of-way), through an arc of a curve to the right, having a Delta of 89° 10’ 55”, a radius of 20.00 feet, an arc length of 31.13 feet, and a chord bearing and distance of North 78° 21’ 46” East 28.08 feet to an existing iron bar in the southern right-of-way margin of Vivian Street; THENCE along the southern right-of-way margin of Vivian Street, South 57° 02’ 46” East 190.22 feet to an existing iron bar labeled Common Corner “DPAC”, the common corner of Data Residential, LLC (PIN 0821-12-86-6523, Deed Book 5833, Page 805) and City of Durham (PIN 0821-12-86-9407, Deed Book 1636, Page 414, Deed Book 2383, Page 804, Deed Book 2542, Page 837, and Deed Book 5428, Page 313); THENCE departing the southern right-of-way margin of Vivian Street, along the common line of Data Residential, LLC and City of Durham, South 19° 05’ 11” West 114.82 feet to a MAG nail set; THENCE with a New Property Line South 70° 49’ 48” East 71.64 feet to a MAG nail set; THENCE with a New Property Line South 19° 14’ 47” East 42.57 feet to a MAG nail set; THENCE with a New Property Line North 70° 45’ 08” West 9.86 feet to a MAG nail set; THENCE with a New Property Line South 19° 00’ 52” West 46.60 feet to a MAG nail set; THENCE with a New Property Line North 70° 52’ 56” West 9.41 feet to a MAG nail set; THENCE with a New Property Line South 19° 04’ 37” West 14.87 feet to a MAG nail set, the TRUE POINT OF BEGINNING;

THENCE from the TRUE POINT OF BEGINNING, with a New Air Rights Property Line South 19° 10’ 49” West 19.99 feet to a MAG nail set; THENCE with a New Property Line North 70° 44’ 05” West 8.57 feet to a MAG nail set; THENCE with a New Property Line North 19° 10’ 41” East 19.98 feet to a MAG nail set; THENCE with a New Property Line South 70° 49’ 11” East 8.54 feet to a MAG nail set, the TRUE POINT OF BEGINNING.

Said Air Rights property being all of NEW AIR RIGHTS PROPERTY AREA No. A1 located above a portion of Lot 4 and adjacent to and east of the western property line of Lot 4 as extended upward, with a variable width, all as shown on the Plats.

#### **4. LEGAL DESCRIPTION OF NEW AIR RIGHTS PROPERTY AREA NO. A2**

All that certain real property being and located in the City of Durham, Durham County, North Carolina, more particularly described as follows:

BEING all of the air space or air rights (“Air Rights”) lying above a horizontal plane at an elevation of 392.0 feet and below a horizontal plane at an elevation of 418.5 feet above United States Coast and Geodetic Survey 1929 adjusted Mean Sea Level as shown on the plat and survey entitled “Exempt Recombination Plat of ATC East Hotel” prepared by Jeffrey P. Williams, Professional Land Surveyor, with Coulter/Jewell/Thames, P.A., dated October 10, 2013, and last revised on \_\_\_\_\_, 2013, and recorded in Plat Book [XX], Pages [XX-XX], Durham County Registry (the “Plats”); the vertical limits of said Air Rights being located over the following described property:

COMMENCING from the North Carolina Geodetic Survey (NCGS) monument designated “Vickers” with corresponding grid coordinates North = 816,769.162 and East = 2,026,104.63613; THENCE North 08° 06’ 45” West a computed grid distance of 1,793.95 feet with a combined grid factor of 0.99994251 to a NCGS monument designated “Lark”, with corresponding grid coordinates North = 818,545.156 and East = 2,025,851.456; THENCE South 57° 32’ 14” East 3,294.20 feet to an existing iron bar in the eastern right-of-way margin of Blackwell Street (a variable width public right-of-way); THENCE along the southern boundary of the intersecting right-of-way margins of Blackwell Street and Vivian Street (a

variable width public right-of-way), through an arc of a curve to the right, having a Delta of 89° 10' 55", a radius of 20.00 feet, an arc length of 31.13 feet, and a chord bearing and distance of North 78° 21' 46" East 28.08 feet to an existing iron bar in the southern right-of-way margin of Vivian Street; THENCE along the southern right-of-way margin of Vivian Street, South 57° 02' 46" East 190.22 feet to an existing iron bar labeled Common Corner "DPAC", the common corner of Data Residential, LLC (PIN 0821-12-86-6523, Deed Book 5833, Page 805) and City of Durham (PIN 0821-12-86-9407, Deed Book 1636, Page 414, Deed Book 2383, Page 804, Deed Book 2542, Page 837, and Deed Book 5428, Page 313); THENCE departing the southern right-of-way margin of Vivian Street, along the common line of Data Residential, LLC and City of Durham, South 19° 05' 11" West 114.82 feet to a MAG nail set, the TRUE POINT OF BEGINNING;

THENCE from the TRUE POINT OF BEGINNING, with a New Property Line South 70° 49' 48" East 71.64 feet to a computed point; THENCE South 70° 55' 23" East 8.67 feet to a computed point; THENCE North 19° 04' 37" East 10.60 feet to a computed point; THENCE North 70° 55' 23" West 8.73 feet to a computed point; THENCE North 70° 54' 49" West 71.57 feet to a computed point; THENCE South 19° 05' 11" West 10.50 feet to a MAG nail set, the TRUE POINT OF BEGINNING.

Said Air Rights property being all of NEW AIR RIGHTS PROPERTY AREA NO. A2 located above a portion of Lot 4 and adjacent to and north of the northern property line of Lot 5 as extended upward, with a variable width, all as shown on the Plats.

TOGETHER with the right of the roof of the proposed building to overhang above the Air Rights as shown on the Plats.

#### **5. LEGAL DESCRIPTION OF NEW PERMANENT FOOTING & COLUMN EASEMENT AREA NO. 2**

That certain area located in the City of Durham, North Carolina and identified as "New Permanent Footing & Column Easement Area No. 2" on plat and survey entitled "Exempt Recombination Plat of ATC East Hotel" prepared by Jeffrey P. Williams, Professional Land Surveyor, with Coulter/Jewell/Thames, P.A., dated October 10, 2013 and last revised on \_\_\_\_\_, 2013, and recorded in Plat Book [XX], Pages [XX-XX], Durham County Registry.

#### **6. LEGAL DESCRIPTION OF NEW 3' WIDE PERMANENT FOOTING EASEMENT AREA NO. 2**

That certain area located in the City of Durham, North Carolina and identified as "New 3' Wide Permanent Footing Easement Area No. 2" on plat and survey entitled "Exempt Recombination Plat of ATC East Hotel" prepared by Jeffrey P. Williams, Professional Land Surveyor, with Coulter/Jewell/Thames, P.A., dated October 10, 2013 and last revised on \_\_\_\_\_, 2013, and recorded in Plat Book [XX], Pages [XX-XX], Durham County Registry.

#### **7. LEGAL DESCRIPTION OF NO BUILD ZONE**

That certain area located in the City of Durham, North Carolina and identified as "No Build Zone" on plat and survey entitled "Exempt Recombination Plat of ATC East Hotel" prepared by Jeffrey P. Williams, Professional Land Surveyor, with Coulter/Jewell/Thames, P.A., dated October 10, 2013 and last revised on \_\_\_\_\_, 2013, and recorded in Plat Book [XX], Pages [XX-XX], Durham County Registry.



**8. LEGAL DESCRIPTION OF NEW STORMWATER, CROSS ACCESS & UTILITY EASEMENT AREA**

SUBJECT TO the rights of other parties in and to the easement pertaining to the following property:

That certain area located in the City of Durham, North Carolina and identified as "New Stormwater, Cross Access & Utility Easement Area" on plat and survey entitled "Exempt Recombination Plat of ATC East Hotel" prepared by Jeffrey P. Williams, Professional Land Surveyor, with Coulter/Jewell/Thames, P.A., dated October 10, 2013 and last revised on \_\_\_\_\_, 2013, and recorded in Plat Book [XX], Pages [XX-XX], Durham County Registry.

**9. LEGAL DESCRIPTION OF EX. DUMPSTER ACCESS EASEMENT AREA (TO BE TERMINATED)**

The easement rights and obligations created by that certain Declaration of Easement for Dumpster Area recorded in Book 5487, Page 183, Durham County Registry, which is being terminated, and pertaining to the following property:

Being all of that irregularly-shaped lot or parcel of land identified as "Dumpster Access Easement Area", being located upon Lot 5 between and adjacent to both Lot 4 and Lot 3 (and also being located adjacent to and north of the northern property line of that lot or parcel of land identified as "9' Wide Cross Access Easement Area"), all as shown on a plat and survey entitled "Final Plat – Property of City of Durham, Subdivision, Recombination and Blackwell St. and Vivian St. Right of Way Dedication of American Tobacco Campus Phase III" prepared by Jeffrey P. Williams, Professional Land Surveyor, with Coulter/Jewell/Thames P.A., dated September 27, 2006 and last revised on January 22, 2007, and recorded in Plat Book 176, Pages 73, 76 and 79, Durham County Registry.

**10. LEGAL DESCRIPTION OF EX. 9' WIDE CROSS ACCESS EASEMENT AREA (TO BE TERMINATED)**

The easement rights and obligations created by that certain Declaration of Easement for Cross Access recorded in Book 5487, Page 175, Durham County Registry, which is being terminated, and pertaining to the following property:

Being all of that lot or parcel of land identified as "9' Wide Cross Access Easement Area", being 9.00 feet wide and running from the southwestern corner of Lot 4 across Lot 5 to Lot 3 (and also being located adjacent to and south of the southern property line of that lot or parcel of land identified as "Dumpster Access Easement Area"), all as shown on a plat and survey entitled "Final Plat – Property of City of Durham, Subdivision, Recombination and Blackwell St. and Vivian St. Right of Way Dedication of American Tobacco Campus Phase III" prepared by Jeffrey P. Williams, Professional Land Surveyor, with Coulter/Jewell/Thames P.A., dated September 27, 2006 and last revised on January 22, 2007, and recorded in Plat Book 176, Pages 73, 76 and 79, Durham County Registry.

**11. LEGAL DESCRIPTION OF ONE BUILDING AGREEMENT**

SUBJECT TO the rights of other parties in and to the easement pertaining to the following property:

That certain area located in the City of Durham, North Carolina and identified as Lot 4 on plat and survey entitled "Exempt Recombination Plat of ATC East Hotel" prepared by Jeffrey P. Williams, Professional Land Surveyor, with Coulter/Jewell/Thames, P.A., dated October 10, 2013 and last revised on \_\_\_\_\_, 2013, and recorded in Plat Book [XX], Pages [XX-XX], Durham County Registry.

## **12. LEGAL DESCRIPTION OF TEMPORARY CONSTRUCTION EASEMENT**

SUBJECT TO the rights of other parties in and to the easement pertaining to the following property:

That certain area located in the City of Durham, North Carolina and identified as Lot 4 on plat and survey entitled "Exempt Recombination Plat of ATC East Hotel" prepared by Jeffrey P. Williams, Professional Land Surveyor, with Coulter/Jewell/Thames, P.A., dated October 10, 2013 and last revised on \_\_\_\_\_, 2013, and recorded in Plat Book [XX], Pages [XX-XX], Durham County Registry.

### **Additional Property**

#### **1. LEGAL DESCRIPTION OF FEE PARCEL NO. 3**

All that certain real property located in the City of Durham, Durham County, North Carolina, more particularly described as follows:

COMMENCING from the North Carolina Geodetic Survey (NCGS) monument designated "Vickers", with corresponding grid coordinates North = 816,769.162 and East = 2,026,104.63613; THENCE North 08° 06' 45" West a computed grid distance of 1,793.95 feet with a combined grid factor of 0.99994251 to a NCGS monument designated "Lark", with corresponding grid coordinates North = 818,545.156 and East = 2,025,851.456; THENCE South 57° 32' 14" East 3,294.20 feet to an existing iron bar in the eastern right-of-way margin of Blackwell Street (a variable width public right-of-way); THENCE along the southern boundary of the intersecting right-of-way margins of Blackwell Street and Vivian Street (a variable width public right-of-way), through an arc of a curve to the right, having a Delta of 89° 10' 55", a radius of 20.00 feet, an arc length of 31.13 feet, and a chord bearing and distance of North 78° 21' 46" East 28.08 feet to an existing iron bar in the southern right-of-way margin of Vivian Street; THENCE along the southern right-of-way margin of Vivian Street, South 57° 02' 46" East 190.22 feet to an existing iron bar labeled Common Corner "DPAC", the common corner of Data Residential, LLC (PIN 0821-12-86-6523, Deed Book 5833, Page 805) and City of Durham (PIN 0821-12-86-9407, Deed Book 1636, Page 414, Deed Book 2383, Page 804, Deed Book 2542, Page 837, and Deed Book 5428, Page 313); THENCE departing the southern right-of-way margin of Vivian Street, along the common line of Data Residential, LLC and City of Durham, South 19° 05' 11" West 114.82 feet to a MAG nail set, THENCE with a New Property Line South 70° 49' 48" East 71.64 feet to a MAG nail set; THENCE with a New Property Line South 19° 14' 47" West 42.57 feet to a MAG nail set; THENCE with a New Property Line North 70° 45' 08" West 5.86 feet to computed point, the TRUE POINT OF BEGINNING;

THENCE from the TRUE POINT OF BEGINNING, with an Old Property Line South 19° 00' 20" West 68.73 feet to an existing iron pipe; THENCE with an Old Property Line North 70° 59' 40" West 18.58 feet to an existing iron pipe; THENCE with an Old Property Line South 19° 00' 20" West 12.67 feet to a computed point; THENCE with a New Property Line North 70° 44' 05" West 3.44 feet to a MAG nail set; THENCE with a New Property Line North 19° 10' 41" East 19.98 feet to a MAG nail set; THENCE with a New Property Line South 70° 49' 11" East 8.54 feet to a MAG nail set; THENCE with a New Property Line North 19° 04' 37" East 14.87 feet to a MAG nail set; THENCE with a New Property Line

South 70° 52' 56" East 9.41 feet to a MAG nail set; THENCE with a New Property Line North 19° 00' 52" East 46.60 feet to a MAG nail set; THENCE with a New Property Line South 70° 45' 08" East 4.00 feet to a computed point, the TRUE POINT OF BEGINNING.

BEING all of Fee Parcel No. 3, containing 589.38 square feet, more or less, as shown on that certain plat and survey entitled "Exempt Recombination Plat of ATC East Hotel" prepared by Jeffrey P. Williams, Professional Land Surveyor, with Coulter/Jewell/Thames, P.A., dated October 10, 2013, and last revised on \_\_\_\_\_, 2013, and recorded in Plat Book [XX], Pages [XX-XX], Durham County Registry.

## **2. LEGAL DESCRIPTION OF NEW TRASH, STORAGE & HANDLING AREA**

That certain area located in the City of Durham, North Carolina and identified as "New Trash, Storage & Handling Area" on plat and survey entitled "Exempt Recombination Plat of ATC East Hotel" prepared by Jeffrey P. Williams, Professional Land Surveyor, with Coulter/Jewell/Thames, P.A., dated October 10, 2013 and last revised on \_\_\_\_\_, 2013, and recorded in Plat Book [XX], Pages [XX-XX], Durham County Registry.

That certain area located in the City of Durham, North Carolina and identified as "Ex. Loading Dock Easement Area" on plat and survey entitled "Exempt Recombination Plat of ATC East Hotel" prepared by Jeffrey P. Williams, Professional Land Surveyor, with Coulter/Jewell/Thames, P.A., dated October 10, 2013 and last revised on \_\_\_\_\_, 2013, and recorded in Plat Book [XX], Pages [XX-XX], Durham County Registry.

## **3. LEGAL DESCRIPTION OF NEW 10' WIDE PRIVATE STORMWATER EASEMENT**

That certain area located in the City of Durham, North Carolina and identified as "New 10' Wide Private Stormwater Easement" on plat and survey entitled "Exempt Recombination Plat of ATC East Hotel" prepared by Jeffrey P. Williams, Professional Land Surveyor, with Coulter/Jewell/Thames, P.A., dated October 10, 2013 and last revised on \_\_\_\_\_, 2013, and recorded in Plat Book [XX], Pages [XX-XX], Durham County Registry.

## **4. LEGAL DESCRIPTION OF NEW STORMWATER, CROSS ACCESS & UTILITY EASEMENT AREA**

TOGETHER WITH the rights of the City in and to the easement pertaining to the following property:

That certain area located in the City of Durham, North Carolina and identified as "New Stormwater, Cross Access and Easement Area" on plat and survey entitled "Exempt Recombination Plat of ATC East Hotel" prepared by Jeffrey P. Williams, Professional Land Surveyor, with Coulter/Jewell/Thames, P.A., dated October 10, 2013 and last revised on \_\_\_\_\_, 2013, and recorded in Plat Book [XX], Pages [XX-XX], Durham County Registry.

## **5. LEGAL DESCRIPTION OF NEW 12.3' WIDE CROSS ACCESS EASEMENT AREA**

That certain area located in the City of Durham, North Carolina and identified as “New 12.3’ Wide Cross Access Easement Area” on plat and survey entitled “Exempt Recombination Plat of ATC East Hotel” prepared by Jeffrey P. Williams, Professional Land Surveyor, with Coulter/Jewell/Thames, P.A., dated October 10, 2013 and last revised on \_\_\_\_\_, 2013, and recorded in Plat Book [XX], Pages [XX-XX], Durham County Registry.

**6. LEGAL DESCRIPTION OF NEW PERMANENT 6.5’ WIDE CROSS ACCESS EASEMENT AREA**

That certain area located in the City of Durham, North Carolina and identified as “New Permanent 6.5’ Wide Cross Access Easement Area” on plat and survey entitled “Exempt Recombination Plat of ATC East Hotel” prepared by Jeffrey P. Williams, Professional Land Surveyor, with Coulter/Jewell/Thames, P.A., dated October 10, 2013 and last revised on \_\_\_\_\_, 2013, and recorded in Plat Book [XX], Pages [XX-XX], Durham County Registry.

**7. LEGAL DESCRIPTION OF NEW 3’ WIDE PERMANENT FOOTING EASEMENT AREA NO. 1**

That certain area located in the City of Durham, North Carolina and identified as “New 3’ Wide Permanent Footing Easement Area No. 1” on plat and survey entitled “Exempt Recombination Plat of ATC East Hotel” prepared by Jeffrey P. Williams, Professional Land Surveyor, with Coulter/Jewell/Thames, P.A., dated October 10, 2013 and last revised on \_\_\_\_\_, 2013, and recorded in Plat Book [XX], Pages [XX-XX], Durham County Registry.

**8. LEGAL DESCRIPTION OF NEW 3’ WIDE PERMANENT FOOTING EASEMENT AREA NO. 3**

That certain area located in the City of Durham, North Carolina and identified as “New 3’ Wide Permanent Footing Easement Area No. 3” on plat and survey entitled “Exempt Recombination Plat of ATC East Hotel” prepared by Jeffrey P. Williams, Professional Land Surveyor, with Coulter/Jewell/Thames, P.A., dated October 10, 2013 and last revised on \_\_\_\_\_, 2013, and recorded in Plat Book [XX], Pages [XX-XX], Durham County Registry.

**9. LEGAL DESCRIPTION OF EASEMENT FOR MAINTENANCE OF MECHANICAL EQUIPMENT**

TOGETHER WITH the rights of the City in and to the easement pertaining to the following property:

That certain area located in the City of Durham, North Carolina and identified as Lot 3 and Lot 5 on plat and survey entitled “Exempt Recombination Plat of ATC East Hotel” prepared by Jeffrey P. Williams, Professional Land Surveyor, with Coulter/Jewell/Thames, P.A., dated October 10, 2013 and last revised on \_\_\_\_\_, 2013, and recorded in Plat Book [XX], Pages [XX-XX], Durham County Registry.

**10. LEGAL DESCRIPTION OF ONE BUILDING AGREEMENT**

TOGETHER WITH the rights of the City in and to the agreement pertaining to the following property:

That certain area located in the City of Durham, North Carolina and identified as Lot 5 on plat and survey entitled "Exempt Recombination Plat of ATC East Hotel" prepared by Jeffrey P. Williams, Professional Land Surveyor, with Coulter/Jewell/Thames, P.A., dated October 10, 2013 and last revised on \_\_\_\_\_, 2013, and recorded in Plat Book [XX], Pages [XX-XX], Durham County Registry.

STATE OF NORTH CAROLINA                    )  
  )        SS:  
CITY OF DURHAM                                )

I, D. ANN GRAY, City Clerk of the City of Durham, North Carolina, ***DO HEREBY CERTIFY*** that the foregoing is a true and exact copy of a resolution entitled "**RESOLUTION OF THE CITY OF DURHAM, NORTH CAROLINA REQUESTING A DEED OF PARTIAL RELEASE OF CERTAIN PREMISES RELATED TO AN INSTALLMENT PURCHASE CONTRACT AND AUTHORIZING THE EXECUTION AND DELIVERY OF A NOTICE OF EXTENSION OF DEED OF TRUST TO ADDITIONAL PROPERTY RELATED THERETO IN ORDER TO EXTEND THE LIEN**" adopted by the City Council of the City of Durham, North Carolina at a City Council Meeting held on the 21st day of October, 2013.

\_\_\_\_\_  
D. Ann Gray  
City Clerk of the  
City of Durham, North Carolina